

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
KENNETH PORTER,

Plaintiff,

v.

TERC,

\_\_\_\_\_  
Defendant.

CIVIL ACTION

NO. 1:04-cv-12008-RGS

**DEFENDANT'S ANSWER TO VERIFIED COMPLAINT**

Defendant TERC, by its attorneys, hereby answers the Verified Complaint ("Complaint") filed by plaintiff Kenneth Porter ("Porter") in the above matter as follows:

**PRELIMINARY STATEMENT**

This portion of the Complaint does not generally state facts that require a response by TERC. To the extent that the Preliminary Statement contains statements of fact, they are denied.

**JURISDICTION AND VENUE**

1. TERC admits the allegations of paragraph 1 of the Complaint.
2. TERC admits the allegations of paragraph 2 of the Complaint.

**STATEMENT OF FACTS**

3. TERC admits the allegations of paragraph 3 of the Complaint except states that Porter was hired on or about March 21, 1997.

4. TERC denies the allegations of paragraph 4 of the Complaint and further states that Porter was properly classified as an exempt employee commencing on February 26, 2001.

5. TERC admits the allegations of paragraph 5 of the Complaint but denies that Porter was improperly classified.

6. TERC is without information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint.

7. TERC is without information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint.

**FIRST CAUSE OF ACTION – OVERTIME (FEDERAL)**

8. TERC incorporates herein its response in paragraph 1 through 7 above.

9. TERC denies the allegations of paragraph 9 of the Complaint.

10. TERC denies the allegations of paragraph 10 of the Complaint.

**SECOND CAUSE OF ACTION – NON-PAYMENT OF WAGES**

11. TERC incorporates herein its response in paragraphs 1 through 10 above.

12. TERC denies the allegations of paragraph 12 of the Complaint.

13. TERC denies the allegations of paragraph 13 of the Complaint.

**THIRD CAUSE OF ACTION – OVERTIME (STATE)**

14. TERC incorporates herein its response in paragraphs 1 through 13 above.

15. TERC denies the allegations of paragraph 15 of the Complaint.

16. TERC denies the allegations of paragraph 16 of the Complaint.

**FIRST AFFIRMATIVE DEFENSE**

Porter is estopped from asserting the claims set forth in the Complaint.

**SECOND AFFIRMATIVE DEFENSE**

Porter has waived the claims set forth in the Complaint.

**THIRD AFFIRMATIVE DEFENSE**

Some or all of Porter's claims are barred by the applicable statute(s) of limitation.

Respectfully submitted

TERC

By its attorneys,

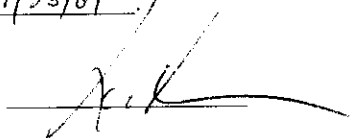
November 30, 2004

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I hereby certify that a copy of the above document  
was served on counsel of record for all parties  
by hand/~~mail~~ on 11/30/04.

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